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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/538,808

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Gunnar Nordstrom

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EXAMINER

LOWE, MICHAEL S

ART UNIT

PAPER NUMBER

3652

MAIL DATE

DELIVERY MODE

10/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/538,808	Applicant(s) NORDSTROM, GUNNAR	
	Examiner Michael Scott Lowe	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/31/08 has been entered.

Specification

The disclosure is objected to because of the following informalities:

It is still unclear how the frame is being rotated or reciprocated despite applicant's remarks. For instance if applicant intends for figures 8A & 8B to rotate, it is unclear of how it could be done. In these figures, the frame and arms appear to support the entire container, which would make it unlikely that it would rotate without rollers or something else not described. If applicant does not intend for the device to rotate in certain figures then it needs to be explained more fully how and in which situations the device is rotating without adding new matter. There appears to be some items missing from the description that would allow the device to fully function as described.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-17,20-27, are rejected under 35 U.S.C. 102(b) as being anticipated by Rebucci (US 4,150,701) in view of Christensen (US 2,433,738).

Re claim 11, Rebucci teaches an output device for a container (generally 60,90) which comprises a bottom (generally 40) and a surrounding wall, comprising a hub (80) and at least two arms (82,84) fixed to the hub (80), characterized in that each arm is designed with

- at least one outer section designed and arranged to at use being capable of essentially preventing material from being brought towards the wall of the container, and
- at least one inner section connected to the outer section, designed and arranged to at use being capable of bringing the material essentially in the direction of feed for the device, at which the at least two arms present essentially concave surfaces facing the direction of feed; the arms (82,84) extend essentially (to the wall of the container (generally 60,90); the container bottom having at least one principally gap-shaped discharge opening (generally 42) located between the hub and the outer ends of the arms. Rebucci does not teach the discharge opening extending from the inner wall of the container radially to the hub. However, Christensen teaches having discharge openings (generally 24,25,59,etc.) extending from the inner wall of the container radially to the hub in order regulate and direct the discharge (column 5, line 36). It would have

been obvious to one of ordinary skill in the art at the time the invention was made to have tried modifying Rebucci by Christensen to have discharge openings extending from the inner wall of the container radially to the hub in order to achieve the predictable result of regulating and directing the discharge.

Re claim 12, Rebucci teaches each arm (82,84) is continuously bent (stays bent and is bent along length).

Re claims 13,20, Rebucci teaches the arms designed with a wedge-shaped cross section, where the wedge-shape tapers (see figure 3) contrary to the direction of feed.

Re claims 14,21,23, Rebucci teaches a frame (generally 90 or 40) arranged adjacent to the outer ends of the arms.

Re claims 17,22,24,25, Rebucci teaches a driving device capable of driving the arms with a rotating movement.

Re claim 15, Rebucci does not state whether the frame (generally 90 or 40) is fixed to the arms but it would have been obvious to one of ordinary skill in the art at the time the invention was made to have tried modifying Rebucci to have the frame fixed to the arms in order to achieve the predictable results of avoiding rubbing the arms against the frame as the arms rotate and also fixing the frame to avoid it getting out of place.

Re claim 16, Rebucci does not state whether the frame (generally 90 or 40) is fixed to the container but it would have been obvious to one of ordinary skill in the art at the time the invention was made to have tried modifying Rebucci to have the frame fixed to the container in order to achieve the predictable result of avoiding rubbing the

container against the frame as the arms rotate and also to fix the frame to avoid it getting out of place.

Re claims 26,27, Rebucci teaches a driving device capable of driving the arms with a rotating movement.

Claims 18,19, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rebucci (US 4,150,701) in view of Christensen (US 2,433,738) and Cantenot (US 4,099,633).

Re claims 18,19, Rebucci does not teach a driving device capable of driving the device with a reciprocating movement. Cantenot teaches a driving device capable of driving the device with a reciprocating movement in order to sweep effectively (column 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have tried modifying Rebucci by the general teaching of Cantenot to have a driving device capable of driving the device with a reciprocating movement in order to achieve the predictable result of sweeping effectively.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Connor (US 3,733,714) teaches radial discharge openings between the hub and container sidewalls.

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., applicant's invention being different or more efficient) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding the drawings, applicant's drawings show the wedge shape cross-section only in a general way and the prior art meets the wedge shape limitations to at least the extent that applicant teaches it.

Regarding the frame rotation, the movement is understood to be as addressed and met in the above rejections although there seems to be items missing that would allow the device to fully function as described.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Scott Lowe whose telephone number is (571)272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571)272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3652

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Scott Lowe/
Examiner, Art Unit 3652